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Attorneys for Plaintiff EEOC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff Equal Employment Opportunity Commission (“Commission”) filed this action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (“Title VII”) to correct alleged unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Charging Parties Magnolia Gomez-Lopez and Emelia Rios (“Charging Parties”), and similarly situated women, whom the Commission alleged were adversely affected by such practices. The Commission alleged that Defendant Mid Valley Labor Services, Inc. (“Mid Valley”) subjected Charging Parties and similarly situated women to unlawful harassment based on their sex, and retaliated against Charging Parties when they opposed the unlawful discrimination, in violation of Title VII. Mid Valley has denied these allegations. The Commission and Mid Valley now seek to resolve this action as to each other and as between Mid Valley and Charging Parties and similarly situated women without further contested litigation through this Consent Decree. This resolution does not constitute an admission of liability on the part of Mid Valley, nor constitute a

1 finding on the allegations stated in the Commission's Complaint.

2 The Court has reviewed this Consent Decree in light of the pleadings, the record herein, and
3 the applicable law, and now approves this Consent Decree.

4 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

5 **GENERAL PROVISIONS**

6 1. This Court has jurisdiction over the subject matter and the parties to this action. This
7 Court retains jurisdiction over this Consent Decree during its term.

8 2. This Consent Decree constitutes a full and final resolution of the Commission's
9 claims against Mid Valley in this action. Said resolution includes all claims which were raised or
10 could have been raised in the Commission's action, all claims arising out of the charges of Magnolia
11 Gomez-Lopez (EEOC Charge #550-2008-01869) and Emelia Rios (EEOC Charge #550-2008-
12 02201), the Commission's investigation of those charges, and the Letters of Determination on those
13 charges. This Consent Decree also resolves the charge of Bernardo Gutierrez against Mid Valley
14 (EEOC Charge #555-2011-00582).

15 3. This Consent Decree will become effective upon its entry by the Court.

16 4. This Consent Decree is final and binding upon the parties to it, their successors and
17 assigns.

18 5. The Commission and Mid Valley will each bear its own costs and attorney fees in this
19 action.

20 **GENERAL INJUNCTIVE RELIEF**

21 6. Mid Valley and its current officers, agents, employees, and all persons in active
22 concert or participation with them are enjoined from discriminating based on sex, including
23 permitting the existence of a work environment that is hostile to employees because of their sex, as
24 prohibited by Title VII.

25 7. Mid Valley and its current officers, agents, employees, and all persons in active
26 concert or participation with them are enjoined from retaliating against the Charging Parties, or any
27 other employee or former employee, for having testified or participated in any manner in the
28 Commission's investigation and the proceedings in this case.

1 **SPECIAL INJUNCTIVE RELIEF**

2 **Non-Discrimination Policies**

3 8. Within thirty (30) days of the entry of this Consent Decree, Mid Valley will revise its
 4 employee handbook's sexual harassment provisions to describe and give examples of sexual
 5 harassment and explain why they are illegal. Mid Valley will revise its discrimination complaint
 6 procedures to assure that they are fair and effective, with alternative routes for women to complain.
 7 Company officials to whom employees can complain will be clearly identified by name, title and
 8 contact information. At least one of the identified company officials to whom employees can
 9 complain will be Spanish speaking, and will be designated as such in the policy. The policy will
 10 assure employees that no retaliation will be taken against them if they complain. The policy will
 11 include the Commission as an agency to which employees may complain (in addition to the
 12 California Department of Fair Employment and Housing currently listed in the policy), and will
 13 include the toll free and/or local telephone numbers for each agency.

14 9. The revised sexual harassment provisions referenced in Paragraph 8 will be translated
 15 and printed in both English and Spanish, and a copy will be issued to each employee of Mid Valley
 16 within sixty (60) days of the entry of this consent decree. The revised sexual harassment provisions
 17 will be provided to counsel for the Commission ten (10) days prior to their issuance.

18 10. Whenever Mid Valley hires new employees or rehires former employees, it will
 19 distribute the sexual harassment policy referenced in Paragraph 8 to each new or rehired employee.

20 **Training**

21 11. Mid Valley will use an outside consultant, paid for by Mid Valley, and undertake
 22 reasonable measures to train all employees concerning sexual harassment, once each year in each of
 23 the geographical areas served by Mid Valley, such year to be measured from the date of the entry of
 24 this Consent Decree. The training will be introduced by a member of upper management for Mid
 25 Valley in each location. Each training will be no less than two (2) hours in length. Training will be
 26 in English, Spanish, and any other language spoken by at least 33% of the employees at the
 27 geographic location where the training takes place.

28 12. In addition to the training referenced in Paragraph 11, within sixty (60) days of the

1 entry of this Consent Decree, Mid Valley will provide one individualized training session in sexual
2 harassment and retaliation of no less than two (2) hours duration to Crew Leader Adrian Gordillo.

3 **Supervisor Accountability**

4 13. Within sixty (60) days of the entry of this Consent Decree, Mid Valley will revise its
5 performance evaluation forms for its managers and supervisors to include an evaluation of the
6 manager or supervisor's effectiveness in preventing sex harassment and retaliation against and
7 among the employees under his/her supervision.

8 14. Within thirty (30) days of the entry of this Consent Decree, a letter will be placed in
9 Adrian Gordillo's personnel file stating that complaints have been made against him by female
10 employees alleging that he has engaged in sex harassment and that he allegedly retaliated against
11 individuals when they opposed such harassment or participated in the investigation of the claims in
12 this action, and instructing him that if he were to engage in incidents of sex harassment or retaliation
13 in the future, such conduct could result in serious disciplinary action, up to and including
14 termination.

15 **Record Keeping and Reports**

16 15. Within thirty (30) days after completing each training session described in Paragraph
17 11, Mid Valley will mail to counsel for the Commission a report containing the date of training, the
18 name of the trainer and/or training program, the name and position of the individual from upper
19 management who introduced the training, an outline of the training content, a list of all attendees,
20 and copies of all materials distributed at the training.

21 16. Within thirty (30) days after the completion of the training of Adrian Gordillo
22 described in Paragraph 12, Mid Valley will mail to counsel for the Commission a report containing
23 the date of training, the name of the trainer and/or training list of all attendees, and copies of all
24 materials distributed at the training.

25 17. Within ten (10) days of the revision of the performance evaluation form referenced in
26 Paragraph 13, Mid Valley will send a copy to counsel for the Commission.

27 18. Within ten (10) days of the placement of the letter in Adrian Gordillo's personnel file
28 in referenced in Paragraph 14, Mid Valley will send a copy to counsel for the Commission.

1 19. Once every six (6) months, to be measured beginning at the date of entry of this
2 Consent Decree and continuing for the duration of this Consent Decree, Mid Valley will notify the
3 counsel for the Commission whether it has received any complaints of sexual harassment from its
4 employees (whether said complaints were filed with an administrative agency or simply raised to a
5 management official at the workplace), what steps were taken in response to that information, and
6 how the situation was resolved.

7 **MONETARY RELIEF**

8 20. Mid Valley will pay the sum of \$150,000.00 in complete satisfaction of the
9 Commission's, Charging Parties' and alleged similarly situated women's claims against Mid Valley
10 as set forth in the Complaint, as well as the above referenced charge of Bernardo Gutierrez. Said
11 sum is paid as a compromise and, as set forth above, Mid Valley fully denies said claims. The
12 payment of said sums does not constitute any admission of wrongdoing. This sum will be allocated
13 by the Commission, at its sole discretion. This sum is to be paid in equal quarterly payments. The
14 first payment shall be due within ten (10) days of the entry of this Consent Decree. This sum will be
15 paid to a fund administrator designated by the Commission, which will then distribute the sum
16 pursuant to the allocation designated at the sole discretion of the Commission. A copy of the check
17 from Mid Valley to the fund administrator, and any transmittal letter, will be sent to counsel for the
18 Commission.

19 **EXPIRATION OF CONSENT DECREE**

20 21. This Consent Decree constitutes a full and final resolution of all the Commission's
21 claims on behalf of Charging Parties and alleged similarly situated women against Mid Valley in this
22 action, and the aforementioned claim of Charging Party Bernardo Gutierrez. This Consent Decree
23 will be in effect for five (5) years, and will expire at midnight of the date five (5) years after its entry
24 by the Court, provided that Mid Valley has substantially complied with the terms of this Consent
25 Decree. Mid Valley will be deemed to have complied substantially if the Court has not made any
26 findings or orders during the term of the Decree that Mid Valley has failed to comply with any of the
27 terms of this Decree.

28 E-filing concurrence: I, Cindy O'Hara, attorney for Plaintiff EEOC, attest that I have obtained the

1 concurrence of Douglas Tucker, attorney for Defendant Mid Valley Labor Services, Inc., for the
2 lodging of this Consent Decree.

3 On Behalf of Plaintiff Commission:

4 Dated: May 11, 2012

5 EQUAL EMPLOYMENT OPPORTUNITY
6 COMMISSION

7 /S/ William R. Tamayo
8 WILLIAM R. TAMAYO
Regional Attorney

9 /S/ Jonathan Peck
10 JONATHAN PECK
Supervisory Trial Attorney

11 /S/ Cindy O'Hara
12 CINDY O'HARA
Senior Trial Attorney

13 It is so ordered.

14
15
16 Dated: 5/14/12

On Behalf of Defendant:

Dated: May 11, 2012

MOSS, TUCKER, CHIU, HEBESHA &
WARD

/S/ Douglas Tucker
DOUGLAS TUCKER
Counsel for Defendant Mid Valley Labor
Services, Inc.

